

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

Crl.MC.No. 3213 of 2006()

FIR IN CRIME NO.761/06 OF KUNNAMKULAM POLICE STATION.

PETITIONER:

1. REJI P.CHERIAN,
AGED 32 YEARS, S/O.P.M.CHERIAN,
PULIKOTTIL HOUSE, NEAR C.G.L.P.SCHOOL,
MULANTHURUTHY P.O., ERNAKULAM DISTRICT.
2. E.C.THANKAMANI, AGED 65 YEARS,
W/O.P.M.CHERIAN, PULIKOTTIL HOUSE,
NEAR C.G.L.P.SCHOOL, MULANTHURUTHY P.O.,
ERNAKULAM DISTRICT.
3. P.M.CHERIAN, AGED 75 YEARS,
PULIKOTTIL HOUSE, NEAR C.G.L.P.SCHOOL,
MULANTHURUTHY P.O., ERNAKULAM DISTRICT.

BY ADV. SRI.A.P.SUBHASH
SMT.T.SUJA

RESPONDENTS:

1. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. MITTI K.THAMPY, D/O.THAMPY K.ABRAHAM,
KAKKARSEY HOUSE, CHOWANNUR P.O.,
KUNNAMKULAM, THRISSUR DISTRICT.

BY P.P. SRI.S.U.NAZAR.
BY ADV. SRI.P.RAMACHANDRAN(R2)

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 13/03/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 3213 OF 2006

Dated this the 13th day of March, 2007

ORDER

The petitioners are accused in a crime registered, inter alia, under Sec.498A of the IPC. They have come to this Court with this petition under Sec.482 of the Cr.P.C. to quash the F.I.R. filed. No interim orders were issued, it is reported. Investigation is complete. Final report has been filed and cognizance has been taken by the learned Magistrate. The petitioners have not appeared before the learned Magistrate. The learned counsel for the petitioners prays that the petitioners may be permitted to claim discharge from the court below. He further points out that accused Nos.2 and 3 are old old and sick and their personal appearance may not be insisted.

2. Petitioners 2 and 3 are shown to be aged 65 years and 75 years respectively. I am satisfied that with an observation that the petitioners can claim discharge and the learned Magistrate should consider their claim for discharge

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at the stage of Sec.239/240 of the Cr.P.C., this Crl.M.C. can be disposed of. I am further satisfied that unless absolutely necessary, the learned Magistrate should not insist the personal appearance of the petitioners 2 and 3. The learned Magistrate must permit them to appear through counsel to claim discharge under Sec.239 of the Cr.P.C. Their personal appearance need be insisted only if the learned Magistrate feels that the charges are liable to be framed and that too only on dates on which the personal appearance is absolutely essential for the progress of the case.

3. With the above observations, this Crl.M.C. is allowed in part.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge